

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re PAYMENT CARD INTERCHANGE	:	MDL No. 1720(MKB)(VMS)
FEE AND MERCHANT DISCOUNT	:	
ANTITRUST LITIGATION	:	Civil No. 05-5075(MKB)(VMS)
	:	
	:	RULE 23(b)(3) CLASS COUNSEL'S
This Document Relates To:	:	MONTHLY REPORT REGARDING THIRD-
	:	PARTY ENTITIES
ALL ACTIONS.	:	
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I. INTRODUCTION

This is the second monthly report regarding third-party claims filers following the Court's request.

As Rule 23(b)(3) Class Counsel ("Class Counsel") reported in October, with the claims process ramping up, there has been a small, but noticeable increase in class member calls. In addition, we have become aware of several law firms recently advertising services related to claims filing in this case. And, as discussed below, we recently became aware of a website that attempts to mirror the official Court-authorized website. This website is highly misleading and possibly fraudulent.

Class Counsel expects more new entrants as the claims process moves forward. To that end, we are increasing our monitoring efforts and Epiq Systems, Inc. ("Epiq" or the "Class Administrator") continues to alert Class Counsel to new issues as they arise in addition to the monthly reporting process already in place.

Class Counsel has updated the current call center scripts to add additional information regarding third parties. As part of other education and outreach programs, we are working on messaging regarding third-party claims filers as well.

II. CURRENT THIRD-PARTY ISSUES

A. Marketing Issues

On October 30, 2023, Class Counsel was alerted to a website and marketing campaign that is highly suspicious. The website, settlement2023.org, is privately registered according to the WHOIS domain database so detailed contact information has so far been limited to an "info@" address. *See* Ex. 1. The website has copied the home page of the official website in many respects, including Epiq's P.O. Box. The website states: "All businesses processing Visa/Mastercard transactions from

January 1, 2004 to January 25, 2019 must participate in the settlement case.” *See* Ex. 2. There is a button that then leads to a calculator page that purports to show a “[s]ettlement [a]mount [e]stimator.” *See* Ex. 3. Then there is a button that says “[p]rocess [s]ettlement.” *See id.* This then leads to another page that states: “[g]et [s]ettlement in 2 [s]imple [s]teps.” *See* Ex. 4 at 1. Step one states: “Speak with a settlement specialist to go over your documents and get your confirmed disbursement amount.” *Id.* Then an appointment must be booked. *See id.* at 1-2. This website was brought to our attention because another company received a voicemail purportedly from rap legend Snoop Dogg that promotes the settlement and leads to the settlement2023.org website. *See* Ex. 5 (voicemail transcript).

Epiq has filed a report of abuse with the host of the website (GoDaddy.com) and it is expected the website will soon be taken down. As of 3:00 p.m. Eastern Time today, the website remains accessible. Class Counsel set-up an “appointment” with the company to hopefully get in touch with the business operators and have them cease their misleading conduct. *See* Ex. 4 at 1-2. After setting up an appointment, counsel received an email with additional questionable statements. *See* Ex. 6. That email included an email contact address as well directions to upload merchant processing statements. *See id.* Class Counsel wrote a letter to the email address provided noting the false and misleading statements and requesting the company cease and desist. *See* Ex. 7. Class Counsel also uploaded the text of the letter following the directions regarding uploading merchant processing statements. *See* Exs. 8-9. Another email was sent October 31, 2023 with no response received. Three additional emails were sent to the contact address on November 1, 2, and 3, 2023. No responses have been received.

Class Counsel will continue to try to reach a representative of the company. Class Counsel requests the Court issue an Order to show cause, based on the materials provided here. The email

addresses found to date related to this entity have not bounced back so any Order to show cause would be sent to the addresses discovered and could also be uploaded to the portal the company promotes on its site.

Additionally, Class Counsel has continued to see an increase in questions and concerns from class members regarding other third-party claims filers. In the past two weeks Class Counsel has reached out to several third-party claims filers to request changes to marketing materials that were either incorrect, misleading, or both. Class Counsel has had detailed back and forth communications with four separate entities (law firms and third-party claims filers) regarding incorrect or misleading materials that have come to our attention. In each case, the corrections were swiftly made and at this time no Court intervention is requested. Class Counsel has seen a number of law firms recently getting involved in the third-party claims filing business and had contact with three firms that had incorrect or misleading materials as part of their marketing materials. All 3 firms made the requested changes within 24 hours.

Class Counsel has planned a conference call for all known third-party claims filers and law firms involved in claims filing on November 17, 2023 to go over issues, answer questions, and provide updated disclaimer language.¹

The new proposed disclaimer language (to be required by December 1, 2023) is set forth below:

1. Claim forms are being delivered and are available online beginning December 1, 2023.

¹ The conference call invitation was sent to more than 190 email addresses. The call will be held November 17, 2023, at 11:00 a.m. Pacific Time / 2:00 p.m. Eastern Time. The call-in information is as follows: 1-800-504-8071; access code 7444955#.

2. Class members need not sign up for a third-party service in order to participate in any monetary relief.

3. No-cost assistance is available from the Class Administrator and Class Counsel during the claims-filing period.

4. Information directing class members to the Court-approved website www.paymentcardsettlement.com for additional information.

B. Outreach to Third Parties

As Class Counsel reported in October, since August 18, 2023, Epiq has been performing specific outreach efforts to known third-party claims filers. An email was sent to 134 third-party claims filers. As of the end of October, Epiq has been in communication with 60 third-party claims filers following the outreach that took place on August 18, 2023. Of those 60 third-party claims filers, Epiq has received client lists from 31 third-party claims filers which claim representation of 121,058 Tax Identification Numbers (“TINs”)/Legal Entities. These client lists also include multiple rows for a single TIN, and multiple rows that lack TINs. Of those 31 third-party claims filers, Epiq has received 29,025 documents from 25 third-party claims filers. Several third-party claims filers have combined their documentation into a single .pdf that covers multiple clients, so the true number is likely higher than the document count can substantiate. Work continues, including the development of processes to efficiently handle the expected increase in third-party claims.

III. CONCLUSION

Class Counsel will continue to apprise the Court regarding issues with third-party claims filers via monthly reports and will bring urgent matters to the Court's attention via letter or other means should the Court wish a different method to be used. The next monthly report will be filed on December 8, 2023.

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